

COMMERCE AND NAVIGATION

Treaty signed at Florence February 26, 1871

Senate advice and consent to ratification April 15, 1871

Ratified by the President of the United States April 29, 1871

Ratified by Italy June 25, 1871

Ratifications exchanged at Washington November 18, 1871

Entered into force November 18, 1871

Proclaimed by the President of the United States November 23, 1871

Article III amended by treaty of February 25, 1913¹

*Provisions inconsistent with convention of August 24, 1918,² regarding
military service held in abeyance for duration of that agreement*

Terminated December 15, 1937³

17 Stat. 845; Treaty Series 177

The United States of America and His Majesty the King of Italy, desiring to extend and facilitate the relations of commerce and navigation between the two countries, have determined to conclude a treaty for that purpose and have named as their respective plenipotentiaries:

The United States of America, George Perkins Marsh, their Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of Italy;

And His Majesty the King of Italy, the Noble Emilio Visconti Venosta, Grand Cordon of his orders of the Saints Maurice and Lazarus, and of the Crown of Italy, Deputy in Parliament, and his Minister Secretary of State for Foreign Affairs.

And the said Plenipotentiaries, having exchanged their full powers, found in good and due form, have concluded and signed the following articles:

ARTICLE I

There shall be between the territories of the High Contracting Parties a reciprocal liberty of commerce and navigation.

¹ TS 580, *post*, p. 120.

² TS 637, *post*, p. 136.

³ Pursuant to protocol of denunciation signed at Rome Dec. 15, 1936.

Italian citizens in the United States, and citizens of the United States in Italy, shall mutually have liberty to enter with their ships and cargoes all the ports of the United States and of Italy respectively, which may be open to foreign commerce.

They shall also have liberty to sojourn and reside in all parts whatever of said territories. They shall enjoy respectively, within the states and possessions of each party, the same rights, privileges, favors, immunities and exemptions for their commerce and navigation as the natives of the country wherein they reside, without paying other or higher duties or charges than are paid by the natives, on condition of their submitting to the laws and ordinances there prevailing.

War vessels of the two Powers shall receive, in their respective ports, the treatment of those of the most favored nation.

ARTICLE II

The citizens of each of the high contracting parties shall have liberty to travel in the states and territories of the other, to carry on trade, wholesale and retail, to hire and occupy houses and ware houses, to employ agents of their choice, and generally to do anything incident to or necessary for trade upon the same terms as the natives of the country, submitting themselves to the laws there established.

ARTICLE III *

The citizens of each of the high contracting parties shall receive, in the states and territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or shall be granted to the natives, on their submitting themselves to the conditions imposed upon the natives.

They shall, however, be exempt in their respective territories, from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia.

They shall likewise be exempt from any judicial or municipal office and from any contribution whatever in kind or in money, to be levied in compensation for personal services.

ARTICLE IV

The citizens of neither of the contracting parties shall be liable in the states or territories of the other, to any embargo, nor shall they be detained with their vessels, cargoes, merchandise, or effects, for any military expedition, nor for any public or private purpose whatsoever, without allowing to those interested a sufficient indemnification, previously agreed upon when possible.

* For an amendment of art. III, see TS 580, *post*, p. 120.

ARTICLE V

The high contracting parties agree, that whatever kind of produce, manufactures or merchandise of any foreign country can be from time to time lawfully imported into the United States, in their own vessels, may be also imported in Italian vessels; that no other or higher duties upon the tonnage of the vessel or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and in like manner, that whatsoever kind of produce, manufactures or merchandise of any foreign country can be from time to time lawfully imported into Italy, in its own vessels, may be also imported in vessels of the United States, and that no higher or other duties upon the tonnage of the vessels or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and they further agree that whatever may be lawfully exported and re-exported from the one country, in its own vessels, to any foreign country, may in the like manner be exported or re-exported in the vessels of the other country; and the same bounties, duties and drawbacks shall be allowed and collected whether such exportation or re-exportation be made in vessels of the United States or of Italy.

ARTICLE VI

No higher or other duties shall be imposed on the importation into the United States of any articles, the produce or manufactures of Italy, and no higher or other duties shall be imposed on the importation into Italy of any articles, the produce or manufactures of the United States, than are or shall be payable on the like articles, being the produce or the manufactures of any other foreign country; nor shall any other or higher duties or charges be imposed, in either of the two countries, on the exportation of any articles to the United States or to Italy respectively, than such as are payable on the exportation of the like articles to any foreign country, nor shall any prohibition be imposed on the importation or the exportation of any articles, the produce or manufactures of the United States or of Italy, to or from the territories of the United States, or to or from the territories of Italy, which shall not equally extend to all other nations.

ARTICLE VII

Vessels of the United States arriving at a port of Italy, and reciprocally, vessels of Italy arriving at a port of the United States, may proceed to any other port of the same country, and may there discharge such part of their original cargoes as may not have been discharged at the port where they first arrived; it is however understood and agreed, that nothing contained in this article shall apply to the coastwise navigation, which each of the two contracting parties reserves exclusively to itself.

ARTICLE VIII

The following shall be exempt from paying tonnage, anchorage and clearance duties in the respective ports.

1st. Vessels entering in ballast, and leaving again in ballast, from whatever port they may come.

2. Vessels passing from a port of either of the two states into one or more ports of the same state, therein to discharge a part or all of their cargo, or take in or complete their cargo, whenever they shall furnish proof of having already paid the aforesaid duties.

3. Loaded vessels entering a port, either voluntarily or forced from stress of weather, and leaving it without having disposed of the whole or part of their cargoes, or having therein completed their cargoes

No vessel of the one country which may be compelled to enter a port of the other, shall be regarded as engaging in trade if it merely breaks bulk for repairs, transfers her cargo to another vessel on account of unseaworthiness, purchases stores or sells damaged goods for re-exportation. It is, however, understood that all portions of such damaged goods destined to be sold for internal consumption shall be liable to the payment of custom duties.

ARTICLE IX

When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage, on the coasts or within the dominions of the other, there shall be given to it all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload the said vessel, if necessary, of its merchandise and effects, and to reload the same, or part thereof, paying no duties whatsoever but such as shall be due upon the articles left for consumption.

ARTICLE X

Vessels of either of the contracting parties shall have liberty, within the territories and dominions of the other, to complete their crew, in order to continue their voyage, with sailors articulated in the country, provided they submit to the local regulations, and their enrolment be voluntary.

ARTICLE XI

All ships, merchandise and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction, or on the high seas, and may be carried or found in the rivers, roads, bays, ports or dominions of the other, shall be delivered up to the owners, they proving in due and proper form their rights before the competent tribunals; it being well understood that the claim should be

made within the term of one year by the parties themselves, their attorneys, or agents of the respective Governments.

ARTICLE XII

The high contracting parties agree that in the unfortunate event of a war between them, the private property of their respective citizens and subjects with the exception of contraband of war, shall be exempt from capture or seizure on the high seas or elsewhere, by the armed vessels or by the military forces of either party; it being understood that this exemption shall not extend to vessels and their cargoes, which may attempt to enter a port blockaded by the naval forces of either party.

ARTICLE XIII

The high contracting parties having agreed that a state of war between one of them and a third Power shall not, except in the cases of blockade, and contraband of war, affect the neutral commerce of the other, and being desirous of removing every uncertainty which may hitherto have arisen respecting that which upon principles of fairness and justice ought to constitute a legal blockade, they hereby expressly declare, that such places only shall be considered blockaded as shall be actually invested by naval forces capable of preventing the entry of neutrals, and so stationed as to create an evident danger on their part to attempt it.

ARTICLE XIV

And whereas it frequently happens that vessels sail for a port or a place belonging to an enemy, without knowing that the same is besieged, blockaded or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband of war, be confiscated, unless, after a warning of such blockade or investment from an officer commanding a vessel of the blockading forces, by an endorsement of such officer on the papers of the vessel mentioning the date, and the latitude and longitude where such endorsement was made, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either that may have entered into such a port before the same was actually besieged, blockaded or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof; and if any vessel, having thus entered any port before the blockade took place, shall take on board a cargo after the blockade be established, she shall be subject to being warned by the blockading forces to return to the port blockaded, and discharge the said cargo, and if after receiving the said warning, the vessel shall persist in going

out with the cargo, she shall be liable to the same consequences as a vessel attempting to enter a blockaded port, after being warned off by the blockading forces.

ARTICLE XV

The liberty of navigation and commerce secured to neutrals by the stipulations of this Treaty, shall extend to all kinds of merchandise excepting those only which are distinguished by the name of contraband of war. And, in order to remove all causes of doubt and misunderstanding upon this subject, the contracting parties expressly agree and declare that the following articles and no others shall be considered as comprehended under this denomination;

1. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuses, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts, bombs, grenades, powder, matches, balls, and all other things belonging to and expressly manufactured for the use of these arms.

2. Infantry belts, implements of war, and defensive weapons, clothes cut or made up in a military form, and for a military use.

3. Cavalry belts, war saddles and holsters.

4. And generally all kinds of arms and instruments of iron, steel, brass, and copper or of any other materials, manufactured, prepared and formed expressly to make war by sea or land.

ARTICLE XVI

It shall be lawful for the citizens of the United States, and for the subjects of the Kingdom of Italy, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandise laden thereon, from any port, to the places of those who now are, or hereafter shall be, at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandise before mentioned, and to trade with the same liberty and security from the places, ports and havens of those who are enemies of both or either party, without any opposition or disturbance whatever, not only directly from the places of the enemy before mentioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of one power or under several; and it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed to be free and exempt from capture which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading or any part thereof should appertain to the enemies of the other, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board of a free ship; and they shall not be taken out

of that free ship, unless they are officers or soldiers, and in the actual service of the enemy. Provided however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those powers only who recognize this principle; but if either of the two contracting parties shall be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle and not of others.

ARTICLE XVII

All vessels sailing under the flag of the United States, and furnished with such papers as their laws require, shall be regarded in Italy as vessels of the United States, and reciprocally, all vessels sailing under the flag of Italy and furnished with the papers which the laws of Italy require, shall be regarded in the United States as Italian vessels.

ARTICLE XVIII

In order to prevent all kinds of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually that, whenever a vessel of war shall meet with a vessel not of war of the other contracting party, the first shall remain at a convenient distance, and may send its boat with two or three men only, in order to execute the said examination of the papers, concerning the ownership and cargo of the vessel, without causing the least extortion, violence or ill-treatment, and it is expressly agreed that the unarmed party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other purpose whatever.

ARTICLE XIX

It is agreed that the stipulations contained in the present Treaty, relative to the visiting and examining of a vessel, shall apply only to those which sail without a convoy; and when said vessels shall be under convoy the verbal declaration of the Commander of the Convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and, when bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ARTICLE XX

In order effectually to provide for the security of the citizens and subjects of the contracting parties, it is agreed between them that all Commanders of ships of war of each party respectively, shall be strictly enjoined to forbear from doing any damage to, or committing any outrage against, the citizens or subjects of the other, or against their vessels or property; and if the said Commanders shall act contrary to this stipulation, they shall be severely

punished, and made answerable in their persons and estates for the satisfaction and reparation of said damages, of whatever nature they may be.

ARTICLE XXI

If by any fatality which cannot be expected, and which may God avert, the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please with the safe conduct necessary to protect them and their property, until they arrive at the ports designated for their embarkation. And all women and children, scholars of every faculty, cultivators of the earth, artisans, mechanics, manufacturers and fishermen, unarmed and inhabiting the unfortified towns, villages or places, and, in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burnt, or otherwise destroyed, nor their fields wasted by the armed force of the belligerent, in whose power, by the events of war, they may happen to fall, but if it be necessary that anything should be taken from them for the use of such belligerent, the same shall be paid for at a reasonable price.

And it is declared that neither the pretence that war dissolves treaties, nor any other whatever, shall be considered as annulling or suspending this article; but on the contrary, that the state of war is precisely that for which it is provided, and during which its provisions are to be sacredly observed, as the most acknowledged obligations in the law of nations.

ARTICLE XXII

The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation, testament or otherwise, and their representatives, being citizens of the other party, shall succeed to their personal goods, whether by testament, or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein such goods are shall be subject to pay in like cases.

As for the case of real estate, the citizens and subjects of the two contracting parties shall be treated on the footing of the most favored nation.

ARTICLE XXIII

The citizens of either party shall have free access to the courts of justice, in order to maintain and defend their own rights, without any other conditions,

restrictions, or taxes than such as are imposed upon the natives; they shall, therefore, be free to employ, in defense of their rights, such advocates, solicitors, notaries, agents and factors, as they may judge proper, in all their trials at law, and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the Tribunals, in all cases which may concern them; and likewise at the taking of all examinations and evidences which may be exhibited in the said trials.

ARTICLE XXIV

The United States of America and the Kingdom of Italy mutually engage not to grant any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional.

ARTICLE XXV

The present Treaty shall continue in force for five (5) years—from the day of the exchange of the ratifications, and, if twelve (12) months before the expiration of that period, neither of the high contracting parties, shall have announced to the other, by an official notification, its intention to terminate the said Treaty, it shall remain obligatory on both parties one (1) year beyond that time; and so on until the expiration of the twelve (12) months which will follow a similar notification, whatever may be the time when such notification shall be given.

ARTICLE XXVI

The present Treaty shall be approved and ratified by His Majesty the King of Italy, and by the President of the United States by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington within twelve months from the date hereof or sooner if possible.

In faith whereof, the plenipotentiaries of the contracting Parties have signed the present Treaty, in duplicate, in the English and Italian languages, and thereto affixed their respective seals.

Done at Florence this twenty-sixth day of February, in the year of our Lord one thousand eight hundred and seventy-one.

GEORGE P. MARSH	[SEAL]
VISCONTI VENOSTA	[SEAL]